

# Supreme Court of Kentucky

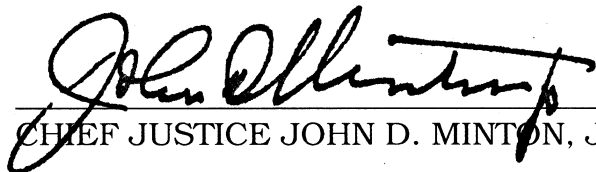
## ORDER

**IN RE: ORDER APPROVING THE RULES OF COURT PRACTICE AND  
PROCEDURE FOR THE 9TH JUDICIAL CIRCUIT, FAMILY  
COURT DIVISION, HARDIN COUNTY**

Upon recommendation of the Judges of the 9th Judicial Circuit, and  
being otherwise sufficiently advised,

The Rules of Court Practice and Procedure for the 9th Judicial Circuit,  
Family Court Division, Hardin County, are hereby approved. This order shall  
be effective as of the date of this Order, and shall remain in effect until further  
orders of this court.

Entered this the 30th day of March 2012.

  
CHIEF JUSTICE JOHN D. MINTON, JR.

**COMMONWEALTH OF KENTUCKY**

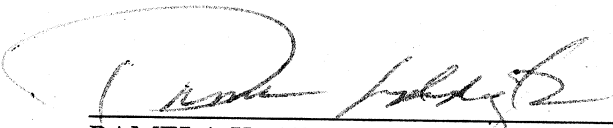
**NINTH JUDICIAL CIRCUIT**

**HARDIN FAMILY COURT**

**RULES OF PRACTICE AND PROCEDURE**

These rules are to become effective upon certification and approval of the Chief Justice of the Commonwealth of Kentucky.


Respectively Submitted,

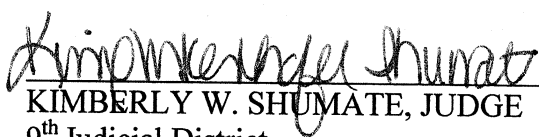
  
PAMELA K. ADDINGTON, JUDGE  
9<sup>th</sup> Judicial Circuit, Family Court, Division I  
Chief Circuit Judge

  
KEN HOWARD, JUDGE  
9<sup>th</sup> Judicial Circuit, Division II

  
KELLY M. EASTON, JUDGE  
9<sup>th</sup> Judicial Circuit, Division III

  
M. BRENT HALL, JUDGE  
9<sup>th</sup> Judicial Circuit, Division IV

  
JOHN D. SIMCOE, JUDGE  
9<sup>th</sup> Judicial District

  
KIMBERLY W. SHUMATE, JUDGE  
9<sup>th</sup> Judicial District

#### CERTIFICATE

I, LORETTA CRADY, Clerk of the Hardin Circuit Court, do hereby certify that the attached Hardin Family Court Rules of Court, Practice and Procedure, were duly signed by HON. KEN HOWARD, HON. KELLY M. EASTON, HON. PAMELA K. ADDINGTON, HON. M. BRENT HALL, HON. JOHN D. SIMCOE and HON. KIMBERLY W. SHUMATE, Judges of the Ninth Judicial Circuit and District of Kentucky and that same is hereby certified to the Chief Justice of the Supreme Court of Kentucky.

This \_\_\_\_\_ day of \_\_\_\_\_, 2012.

  
CLERK, HARDIN CIRCUIT COURT

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## **9th Judicial Circuit - Hardin Family Court**

### **HFCRPP 1. INTRODUCTION / ADMINISTRATIVE PROCEDURE**

#### **1.01 Mission**

Pursuant to KRS 23A.110, the jurisdiction of the family court division of Circuit Court shall be applied to promote the underlying purposes, which are as follows:

- A. To strengthen and preserve the integrity of the family and safeguard marital and familial relationships;
- B. To protect children and adult family members from domestic violence and abuse;
- C. To promote the amicable settlement of disputes that have arisen between family members;
- D. To assure an adequate remedy for children adjudged to be dependent, abused, or neglected, and for those children adjudicated as status offenders;
- E. To mitigate the potential harm to the spouses and their children caused by the process of legal dissolution of marriage; and
- F. To make adequate provision for the care, custody, and support of minor children of divorce and for those children who have been born out of wedlock.

#### **1.02 Introduction**

- A. These RULES FOR THE FAMILY COURT OF HARDIN COUNTY, NINTH JUDICIAL CIRCUIT shall be cited as "HFCRPP" which stands for Hardin Family Court Rules of Practice and Procedure. The HFCRPP shall supplement the Kentucky Rules of Civil Procedure (CR) and the Family Court Rules of Procedure and Practice (FCRPP).
- B. The HFCRPP shall also supplement the Rules of Court Practice and Procedure for the 9<sup>th</sup> Judicial Circuit and all subsequent Administrative Orders. The HFCRPP shall supersede the rules of the District and Circuit Courts in all instances where such rules are inconsistent herewith for cases within the jurisdiction of Family Court and the former Hardin Family Court Rules prior to the establishment of Division IV of Hardin Circuit Court-Family Court.

C. Cases filed in the Family Court shall be styled as follows:

COMMONWEALTH OF KENTUCKY  
HARDIN CIRCUIT COURT  
FAMILY COURT - DIVISION I  
CASE NO. \_\_\_\_\_

OR

COMMONWEALTH OF KENTUCKY  
HARDIN CIRCUIT COURT  
FAMILY COURT - DIVISION IV  
CASE NO. \_\_\_\_\_

D. The HFCRPP shall be effective upon the approval of the Chief Justice of the Kentucky Supreme Court.

### **1.03 Jurisdiction**

A. Pursuant to Kentucky Constitution § 112(6), "The Supreme Court may designate one or more divisions of Circuit Court within a judicial circuit as a family court division. A Circuit Court division so designated shall retain the general jurisdiction of the Circuit Court and shall have additional jurisdiction as may be provided by the General Assembly."

B. Pursuant to KRS § 23A.100, a Family Court division of Circuit Court shall retain jurisdiction in dissolution of marriage; child custody; visitation; maintenance and support; equitable distribution of property in dissolution case; adoption; and termination of parental rights, as well as domestic violence and abuse proceedings under KRS Chapter 403 subsequent to the issuance of an emergency protective order in accord with local protocols under KRS 403.735; proceedings under the Uniform Act on Paternity, KRS Chapter 406, and the Uniform Interstate Family Support Act, KRS 407.5101 to 407.5902; dependency, neglect, and abuse proceedings under KRS Chapter 620; and juvenile status offenses under KRS Chapter 428, KRS 244 and KRS Chapter 630, except where proceedings under KRS Chapter 635 or 640 are pending.

### **1.04 Consolidation of related cases**

Pursuant to CR 42.01, when two or more different actions are pending in Family Court involving the same parties and common questions of law or fact, those cases may be consolidated at the discretion of the presiding Family Court Judge. Even when such cases are consolidated, the files shall be maintained separately.

### **1.05 Appeal from Family Court matters**

Pursuant to KRS § 22A.020(1) and CR 73.01(2), an appeal may be taken as a matter of right to the Court of Appeals.

### **1.06 Court holidays**

The Family Court shall adhere to the list of Court holidays as set out by the Chief Circuit Judge of Hardin County.

### **1.07 Disqualification of judge**

The Family Court Judge shall complete the appropriate AOC form (Notice of Disqualification) or other disqualification document. The matter may be transferred to the other Family Court Division.

## **HFCRPP 2. COURT SCHEDULING / MOTION HOUR / PROCEDURES FOR FILING**

### **2.01 Court Schedule and Calendar**

See Appendix No. 1.

### **2.02 Rule day/motion hour and motion practice**

#### **A. Motion Hour for Domestic Relations cases:**

1. Rule Day/Motion Hour for Division I involving Domestic Relations cases shall begin at 11:00 a.m. each Tuesday except the fifth Tuesday of any given month and during the months of July and December when Rule Day/Motion Hour will be held only on the first and second Tuesdays of the month.
2. Rule Day/Motion Hour for Division IV involving Domestic Relations cases shall begin at 11:30 a.m. each Tuesday except the fifth Tuesday of any given month and during the months of July and December when Rule Day/Motion Hour will be held only on the first and second Tuesdays of the month.
3. Fifteen (15) minute hearings will begin at 1:00 p.m. on Tuesdays for motions filed for both Division I and Division IV. All matters requiring more than 15 minutes shall be scheduled for a date certain other than motion day by the presiding Family Court Judge or by the Judge's staff to promote judicial economy.

#### **B. Motion Practice for Domestic Relations Cases**

1. Any motion accompanied by an "Agreed Order" and any motion for default judgment may be filed with the Clerk and sent directly to the presiding Family Court Judge for his or her signature. All other motions must be noticed for a hearing at Motion Hour on a Rule Day, except for those contempt matters applying to HFCRPP 2.05.
2. Each motion to be heard on a Motion Day shall be filed with the Clerk no later than 3:00 p.m. on the Wednesday immediately preceding the Motion Day for which the motion has been noticed. Each motion shall be served upon opposing counsel, or party not represented by counsel and entitled to notice, no later than midnight on the Wednesday immediately preceding the Rule Day for which the motion has been noticed. "Service" shall be as described in CR



5.02 or by placing a copy of the motion in the mail slot allotted to that opposing counsel in the Clerk's office located in the Hardin County Justice Center. All post-judgment motions must be served upon the opposing party.

3. Each notice shall state therein, in general terms, the subject matter of the motion and the action of the Court requested by the movant.
4. No motion will be heard by the Court unless same is accompanied by a tendered order which the movant desires the Court to enter and by tendered Findings of Fact and Conclusions of Law if the requested order will be a final and appealable order and such Findings and Conclusions are required by law.
5. Any "Agreed Order," except one dealing solely with a procedural matter such as the method of presenting proof, shall be accompanied by a proposed Findings of Fact, and Conclusions of Law, if involving a final and appealable matter or otherwise required by law.

#### **C. Deadlines for Serving and Filing Motions**

1. All contested domestic relations motions and hearings designated to be heard in the Family Court shall be filed with the Hardin Circuit Court Clerk assigned to Family Court, hereinafter referred to as "Clerk".
2. All juvenile matters, paternity matters, and domestic violence matters shall be filed with the Clerk and scheduled according to the calendar established by the Family Court Judge or requested for immediate review by the Court in accordance with the Domestic Violence Protocol (Appendix No. 3) if involving Domestic Violence.
3. All matters involving paternity and child support connected with a paternity case/child support, juvenile status, dependent, neglected or abused, and domestic violence will be filed one week in advance of the docket set for such matters, unless good cause is shown and advance permission is obtained from the Family Court Judge. There will be no separate motion hour for these matters.

#### **2.03 Hardin Family Court Case Disclosure Form**

Each and every new petition\* filed within Hardin Family Court shall be accompanied with a completed Hardin Family Court Case Disclosure (see Appendix No.2) signed by the petitioning party and petitioner's counsel, if represented. The Clerk of this Court shall use this information when assigning a Family Court Judge to each matter and, where possible, any new case shall be assigned to the same Judge that is presiding over any existing cases of the parties. If multiple cases are pending in different divisions, then the clerk shall notify Family Court Staff and the Family Court Judges shall confer to

determine which division would be more appropriate for said case to be assigned or transferred to.

\*New petitions include all dissolution of marriage, custody, child support, adoption, termination of parental rights, emergency protective and domestic violence, DNA, status and paternity actions.

#### **2.04. Distribution requirement on Orders**

Each motion filed in Hardin Family Court shall be accompanied by an Order specifying the requested relief of the movant. Further, this Order shall include a distribution list which names the parties to the action or the counsel representing said parties.

The Clerk shall distribute copies of all orders by mail to any unrepresented party or delivery or placement in the receptacles assigned for the attorneys in the clerk's office to the persons listed under DISTRIBUTION and shall certify such mailing, delivery or placement by making a check mark by the person listed and shall initial and date the same at the bottom of the distribution list. All orders and judgments shall contain a distribution list, same to include any acts required of the Clerk by said order or judgment, as set out in the following example:

Distribution:

Hon. John Doe

(Address)

[ ]

Hon. Michelle Doe

(Address)

[ ]

Clerk to provide copy to Master Commissioner

[ ]

\_\_\_\_\_  
Clerk's initials and date

#### **2.05. Contempt, Motions for Contempt of Court, Restraining Orders or Injunctions**

Contempt motions involving all Family Court cases shall be heard by the presiding Family Court Judge and shall be noticed for a hearing pursuant to the Court's docket as contained in HFCRPP 2.01/Appendix 1, or at any other time in the sole discretion of the presiding Family Court Judge for judicial economy and in the following manner:

The party moving for a rule against another party in a Family Court case shall file the following with the clerk:

- A. A motion for a rule and for a hearing date which shall be set by the Family Court Judge or his/her staff.
- B. An affidavit setting forth facts supporting the motion.

- C. An order incorporating the allegation of the affidavit and setting the date which will be provided by the Judge or his/her staff, for the responding party to appear and show cause why he/she should not be held in contempt, e.g.:

[CAPTION]

On \_\_\_\_\_, Respondent/Petitioner was ordered to pay/do \_\_\_\_\_.  
\_\_\_\_\_. Petitioner/Respondent has filed an affidavit showing  
prima facie that the Respondent/Petitioner has failed to \_\_\_\_\_.

WHEREFORE, IT IS HEREBY ORDERED that the Respondent/Petitioner  
appear in the Court on \_\_\_\_ at \_\_\_\_ am/pm to show cause why he/she should not be held in  
contempt of Court.

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
JUDGE, HARDIN CIRCUIT COURT  
FAMILY COURT-DIVISION \_\_\_\_\_

- D. Proposed Findings of Fact, Conclusions of Law and Order, or if the responding party is subsequently found to be in contempt, shall be tendered by the prevailing party at the request of the presiding Family Court Judge.
- E. The Clerk shall submit these papers to the presiding Judge. If the affidavit shows prima facie that the responding party is in violation of a previous court order, the show cause order will be signed, a hearing date set by the Family Court Judge or Court Staff, and all papers returned to the Clerk's Office.
- F. If appropriate fees, if any, have been paid, the motion, affidavit and order will then be served on the responding party as follows:
1. Pre-Judgment Proceedings - A pre-judgment motion for a Rule for failure to abide by the provisions of a pendente lite order shall be served upon opposing counsel, or party not represented by counsel, no later than midnight on the Wednesday immediately preceding the Rule Day on which the motion is to be heard. "Service" shall be pursuant to CR 5.01 and as described in CR 5.02, or by placing a copy of the motion in the mail slot allotted to opposing counsel in the Clerk's Office.
  2. Post-Judgment Proceedings - A post-judgment motion for a Rule for failure to abide by the provisions of any order or judgment must be filed with the Clerk no later than ten days prior to the Rule Day on which the motion is to be heard. Notice of such a motion must be served upon the adverse party and his attorney of record, if any, at least ten days prior to the Rule Day for which the motion is noticed. Service upon the adverse party shall be as described in CR 4.01. Service upon the opposing attorney of record shall be as described in CR 5.02, or by placing a copy of the

motion of same in the box provided for them in the Office of the Hardin Circuit Court Clerk.

- G. Proof of service on the adverse party must be filed in the record or by placing same in the mail slot allotted to opposing counsel in the Clerk's office before the motion will be heard.

## **2.06 Warning Order Attorneys and Guardians ad Litem Appointment**

Warning Order Attorneys and Guardians ad Litem (on all non-DNA cases) shall be appointed from a list of attorneys who are in good standing with the Hardin County Bar Association and have been approved by the presiding circuit judges, with each attorney on the list to receive an equal number of appointments. Any attorney not wishing to receive such appointments may have his or her name removed from the list by written notification filed with the Circuit Court Clerk.

## **2.07 Fees**

- A. Motions for compensation shall be accompanied by an affidavit indicating:
1. The statutory basis for appointment;
  2. The hours of service rendered with a brief description of the services rendered and reasonableness of the fee requested; and
  3. That the action or proceedings have been concluded.
- B. Unless objection has been filed, the Clerk shall pay any deposited fee to the Warning Order Attorney or Guardian ad Litem (non-DNA case) as directed by the Court.

## **2.08 Paupers**

Any attorney appointed as Warning Order Attorney or Guardian ad Litem in an in forma pauperis proceeding will also be appointed in the next non-pauper action where appointment of a Warning Order Attorney or Guardian ad Litem is requested and in which that attorney is eligible for appointment.

## **2.09 Mediation**

Mediation is an informal process in which a neutral third person called a mediator facilitates the resolution of a dispute between two or more parties. The process is designed to help disputing parties reach an agreement on all or part of the issues in dispute. Decision-making authority remains with the parties, not the mediator. The mediator assists the parties in identifying issues, fostering joint problem-solving and exploring settlement alternatives. Duties of the Mediator are set out in attached Appendix No. 4.

### **(A) Referral of cases to mediation**

Pursuant to FRCPP Rule 2 (6) (a) the Court may order mediation to occur.

**(B) Mediator compensation**

The mediator shall be compensated at the rate agreed upon between the mediator and the parties if the mediator is chosen by agreement. If the mediator is appointed by the Court, the fee for the mediator shall be reasonable and no greater than the mediator's standard rate as a mediator. Unless otherwise agreed by the parties or ordered by the Court, the parties shall equally divide the mediator's professional fees.

**(C) Mediation procedure**

1. Following selection of the mediator, the mediator shall set an initial mediation conference within forty-five (45) days. The mediation conference shall be held in Hardin County unless some other site is agreed to by the parties. The mediator may meet with the parties or their counsel prior to the mediation conference for the purpose of establishing a procedure for the mediation conference. The mediator may require the parties to submit a confidential statement of the case or other materials that the mediator may reasonably believe appropriate for efficiently conducting the mediation conference.
2. Counsel for each party or a party if pro se shall file in no less than 5 days prior to the mediation conference and updated Verified Disclosure Statement, a copy of which shall be provided to the mediator.
3. Counsel for each party or a party if pro se shall in no less than 5 days prior to the mediation conference shall provide the mediator with the following documents:
  - a). A short statement including definition of the issues to be addressed by the mediator and a brief narrative statement of any special problems affecting the case (i.e. closely held corporations, medical problems of any family members, etc.).
  - b). All information and copies of all documents requested by the mediator prior to the mediation conference.

**(D) Attendance at mediation conference**

All parties and their Counsel are required to attend the mediation conference unless otherwise specifically ordered by the Court.

**(E) Completion or termination**

The mediator may terminate the mediation conference after a settlement is reached or when the mediator determines that continuation of the process would be unproductive. After the initial mediation conference, mediation shall continue only by the agreement of the parties, their counsel and the mediator, or by order of the Court.

**(F) Failure to appear for mediation**

If either party should fail to appear without reasonable notice and good cause for any mediation session, at the conclusion of the case, the Court may, upon a motion, award attorney's fees and costs or impose any other appropriate sanction including contempt.

**(G) Report to the court**

The mediator shall report to the Court that the mediation has not occurred, has not been completed, or that the mediation has been completed with or without an agreement on any or all issues. With the consent of the parties, the mediator may also identify those matters which, if resolved or completed, would facilitate the possibility of a settlement.

**(H) Agreement**

If an agreement is reached during the mediation conference, it shall be reduced to writing and signed by the parties. The mediator shall draft the agreement and have the parties sign said document prior to the conclusion of the mediation session. Said agreement shall be filed with the Court within 5 days of the conclusion of the mediation session.

**(I) Confidentiality**

1. Mediation sessions shall be closed to all persons other than the parties, their legal representatives, and other persons invited by the mediator with the consent of the parties.
2. Mediation shall be regarded as settlement negotiations for purposes of K.R.E. 408.
3. Mediators shall not be subject to process requiring the disclosure of any matter discussed during the mediation, but rather, such matters shall be considered confidential and privileged in nature except on order of the Court for good cause shown. This privilege and immunity reside in the mediator and may not be waived by the parties.
4. Nothing in this rule shall prohibit the mediator from reporting abuse according to KRS 209.030, KRS 620.030, or other applicable law.

**HFCRPP 3. ADOPTION AND TERMINATION OF PARENTAL RIGHTS**

**3.01 Petition and case number assignment**

Pursuant to FCRPP 32(2)(b), every petition in an adoption or termination action shall include the case number of any related dependency file and the name of any Guardian ad Litem and/or attorney previously appointed.

### **3.02 Guardian ad Litem**

Guardian Ad Litem standards and expectations of practice are articulated by Family Court Policy contained in attached Appendix No. 5. Pursuant to KRS 199.480(3), no Guardian ad Litem need be appointed in an adoption proceeding if the requirements of the statute are met.

### **3.03 Voluntary termination of parental rights**

Voluntary termination hearings shall be held within seven (7) days of the filing of the petition unless waived by the Court for good cause shown. Within three (3) days after a petition for the voluntary termination of parental rights is filed, the Court shall set a date for a hearing which shall not be more than thirty (30) calendar days after the petition is filed, unless for good cause. KRS 625.042(1).

### **3.04 Guardian ad Litem in post-judgment reviews**

- A. In all cases where post-judgment reviews of terminations of parental rights are conducted pursuant to Public Law 96-272 ("Adoption Assistance and Child Welfare Act of 1980," codified at 42 U.S.C. §§ 670-679 (1988)) where a Guardian ad Litem has been previously appointed by the Court, that individual shall continue to serve in such capacity unless otherwise ordered.
- B. If the previously appointed guardian is unable or unwilling to serve or if no guardian has been appointed, a Guardian ad Litem shall be appointed by the Court.

## **HFCRPP 4. DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY**

### **4.01 24-Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol**

The Twenty-Four Hour Accessibility Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol of the 9<sup>th</sup> Judicial Circuit and District is attached as Appendix 3 and incorporated into these Rules by reference as if fully set out herein.

## **HFCRPP 5. PATERNITY ACTIONS**

### **5.01 Introduction/scope and applicability/case number assignment**

These Rules shall govern paternity and child support actions pursuant to KRS Chapters 405, 406, and 407.

### **5.02 Court calendar and filing deadlines**

- A. Paternity and child support matters with a "J" designation shall be heard pursuant to the schedule in HFCRPP 2.01/Appendix 1, unless otherwise scheduled by the Family Court Judge.
- B. Contempt motions arising from paternity/child support action with a "J" shall be heard pursuant to HFCRPP 2.05, unless otherwise scheduled by the Family Court Judge.
- C. Any motion filed on the Paternity/Child Support "J" docket shall be filed one week in advance of the court date.

### **5.03 Guardians ad Litem and military attorneys**

- A. Guardians ad Litem for minor defendants and military attorneys shall be appointed from a panel of attorneys who have registered their willingness to accept appointments with the Circuit Court Clerk's Office. Appointments shall be made in rotation according to the register, except in those cases where an emergency exists, a member of the panel previously represented the party, or special language or communication skills are necessary for adequate representation of a party.
- B. Within sixty (60) days of the appointment, the Guardian ad Litem or Military Attorney shall either file an answer on behalf of the Respondent or a report stating that after careful examination of the case that the Respondent is unable to present a defense.

### **5.04 Time-Sharing/Visitation Guidelines**

The Time-Sharing/Visitation Guidelines detailed in Appendix 6 are suggested as guidelines for the parents and the Court in establishing time-sharing/visitation schedules. Each case will present unique facts or circumstances which shall be considered by the court in establishing a time-sharing/visitation schedule and the final schedule established by the court or agreed to by the parents may or may not be what these guidelines suggest.

### **5.05 Reopening fee**

Pursuant to FCRPP 14(1), a fee of \$50.00 shall be paid by the movant in paternity cases reopened after six (6) months from the entry of the paternity judgment for the purpose of modifying any support, custody or visitation ordered. This does not include motions in 42 U.S.C. Title IV-D cases for child support enforcement. The clerk shall collect any fee upon the filing of the motion, unless the movant is proceeding in forma pauperis.



### **5.06 Custody, visitation or other ancillary matters**

No custody, visitation or other ancillary matters shall be handled on the paternity docket. The parties must file a separate civil action.

### **5.07 Pre-trial procedures for genetic testing**

#### **A. Genetic Testing**

1. See FCRPP 15(1).
2. Pursuant to FCRPP 15(2), within thirty (30) days of receipt of the genetic report, the Petitioner shall file the original report with the Court in support of a motion to dismiss, to set for trial, or for summary judgment.
3. Pursuant to FCRPP 15(3), in cases in which the genetic test report excludes the defendant from paternity, the Court after the expiration of thirty (30) days from the date of the filing of the exclusionary report, shall enter an order of dismissal in favor of the defendant unless a motion for additional testing is filed prior to the expiration of the thirty (30) days.

## **HFCRPP 6. DEPENDENCY, NEGLECT AND ABUSE**

### **6.01 Introduction/scope and applicability**

These Rules shall govern dependency, neglect, or abuse actions as defined by the Kentucky Unified Juvenile Code and known collectively as "dependency actions."

### **6.02 Service of process and notice**

- A. The Clerk may prepare and deliver to the Sheriff for service a summons requested by appointed counsel and Guardians Ad Litem. The attorneys shall prepare the subpoenas for their cases.
- B. The Hardin County Attorney shall notify all parties, including CASA and the Foster Care Review Board, if applicable, and counsel of all proceedings which have not been previously noticed to them, including dispositional reviews.
- C. Except in cases where good cause is shown or an emergency exists, all parties shall be given a minimum of five (5) days notice of all hearings and reviews.

### **6.03 Effect of service on only one parent/person exercising custodial control or supervision**

The judge may permit the temporary removal hearing or the adjudicatory hearing to go forward when one parent has not been served, if it is established on the record that Petitioner has made diligent efforts to serve all other parties in time to permit them to prepare for and participate in the hearing, including initiating contact with the Child Support Division of the County Attorney's Office in an attempt to locate any absent parent or other measures in compliance with statutory requirements. The Petitioner shall make continuing diligent efforts after the hearing to locate and notify all persons who were not served. If the second parent or persons exercising custodial control or supervision has not been served with the petition prior to a hearing but subsequently notified of the proceedings, the Court shall hear the matter, giving preference to statutory actions seeking entitlement of custody.

### **6.04. Petition and case number assignment**

- A. Any petition for dependency, neglect and abuse filed with this Court shall include:
  - 1. Citations to the specific statute and factual allegations relied upon in asserting the Court's jurisdiction; and
  - 2. Full information concerning the child's parents and their addresses, if known, after diligent efforts to locate them have been made by the Petitioner.
- B. Upon the filing of a juvenile petition with the Clerk, the Clerk shall enter the case into the management information system, prepare the Guardian ad Litem appointment order, and issue a packet of process. Pursuant to FCRPP 18, the packet of process shall include a copy of the petition, a copy of the Emergency Custody Order, and the original summons which has a statement of the rights of the parents, and an affidavit of indigency.
- C. A Family Court Judge, or if not available, a District Court Judge, shall review the petition. If the reviewing Judge finds that removal is in the best interest of the child pursuant to KRS 620.060 then the Judge shall issue an Emergency Custody Order and schedule a hearing in the Family Court pursuant to KRS 620.060 consistent with HFCRPP 2.01/Appendix 1.

### **6.05 Court calendar and filing deadlines**

- A. Dependency, neglect and abuse matters, including contempt, shall be heard every Wednesday, pursuant to the schedule set out in HFCRPP 2.01/Appendix 1 and at any other time deemed necessary by the Family Court Judge to promote judicial economy.
- B. Any motion, except contempt, filed in a dependency, neglect or abuse shall be filed one week in advance of the court date.

#### **6.06 Pre-trial conferences**

Pre-trial conferences shall be conducted by the Family Court Judge, the staff attorney or other court personnel at the discretion of the Family Court Judge. The pre-trial conference shall be limited to 30 minutes, except for good cause shown.

#### **6.07 Appointment of counsel for indigent parents and persons exercising custodial control or supervision**

Counsel shall be appointed from a panel of attorneys who have registered their willingness to accept appointments with the Hardin Circuit Court Clerk's Office. Appointments shall be made in rotation according to the register, except in those cases where an emergency exists, a member of the panel previously represented the party, or special language or communication skills are necessary for adequate representation of a party.

#### **6.08 Guardians ad Litem**

The Family Court has adopted guidelines for attorneys representing children, attached as Appendix No. 5.

### **HFCRPP 7. DOMESTIC RELATIONS PRACTICE**

#### **7.01 Restraining orders**

Pursuant to FCRPP 2(5) the Court may enter a Status Quo Order regarding marital assets. The requesting party shall file the Status Quo Order, AOC-237, with the Court upon the filing of a motion.

#### **7.02 Preliminary Verified Disclosure Statements (PVDS) and Final Verified Disclosure Statements (FVDS)**

- A. In each contested action for divorce or legal separation, parties shall comply with FCRPP 2(3).
- B. Final Verified Disclosure Statements (FVDS) shall be filed within 10 days prior to any scheduled final hearing.
- C. Failure to file the Final Verified Disclosure Statement (FVDS), within 10 days prior to the final hearing, may, at the sole discretion of the presiding Family Court Judge, result in a continuance of any scheduled hearing.

#### **7.03 Obtaining a Decree of Dissolution in uncontested actions for divorce or legal separation**

For Purposes of this Rule, an "uncontested action" is defined as follows:

- A. 1. An action in which there has been filed a separation agreement executed by both parties, and in which no motion to set aside that agreement is pending;
2. An action in which the Respondent is before the Court only by warning order service of process, the warning order attorney's report has been filed, and the moving party is requesting only dissolution of the marriage, custody of children over which this Court has jurisdiction and/or division of property located in Kentucky;
3. An action in which the Respondent has been served with process pursuant to CR 4.01 and has filed no responsive pleading, and in which the moving party is requesting only limited relief, evidence in support of which can be presented in 15 minutes or less.

**B. Proof by Deposition or Interrogatory:**

Proof in an uncontested action shall be taken by deposition or interrogatory pursuant to CR 43.04(1). The motion to submit need not be noticed for a regular Motion Hour, but may be tendered to the Family Court Judge by filing the motion in the Clerk's office.

Any motion to submit an uncontested action must be accompanied by a proposed "Findings of Fact, Conclusions of Law, Judgment and Decree" which the moving party desires the Court to adopt.

Any Separation Agreement or Agreed Judgment providing for a child support obligation shall include as an attachment thereto a Commonwealth of Kentucky Worksheet for Monthly Child Support Obligation. If the child support obligation established in the Separation Agreement does not correspond to the child support guidelines contained in KRS Chapter 403, the agreement must state the reason for deviation from the guidelines.

**7.04 Discovery in contested actions for Divorce or Legal Separation**

- A. Discovery shall be completed thirty (30) days prior to the final trial date.
- B. It shall be the duty of the party to supplement all required responses in accordance with CR 26.05 not later than thirty (30) days prior to the hearing date or trial date.
- C. Upon motion to the Court, discovery time may be extended in custody issues and complex economic issues, at the discretion of the Court and for good cause shown.

**7.05 Subpoenas for medical, psychiatric, or other privileged records**

- A. Subpoenas for hospital records shall be issued pursuant to KRS 422.300 et seq.

- B. Subpoenas and accompanying orders for release of psychiatric and other privileged records shall only be issued by the Family Court upon motion by the requesting party, accompanied by an appropriate affidavit which shall set forth legitimate grounds for the request. Said affidavit shall specifically state a statutory and/or common-law basis for the issuance of the subpoena and order. The Court shall require a hearing prior to ordering the release of any privileged information.

#### **7.06 Domestic violence waiver**

In any matter before this Court, any party may seek an order from the Court waiving the requirement to share specific information with the opposing party if release of such information would endanger the safety and welfare of the party or another involved person.

#### **7.07 Motions to set for trial**

A motion to set a domestic relations action for trial shall be noticed for any regular Motion Hour. On receipt of such a motion, the Family Court Judge may in his or her discretion set a trial date. Prior to setting a trial date, the Family Court Judge may in his or her discretion set a pretrial conference, which shall be conducted in accordance with HFCRPP 7.08.

#### **7.08 Pretrial conference**

- A. Either party or the presiding Family Court Judge can schedule a pretrial conference in addition to the case management conference thirty (30) days prior to the final hearing date.
- B. Both parties and/or their counsel shall be present except for good cause shown.
- C. Agreements and stipulations shall be entered on the record or submitted in writing.
- D. A hearing order listing proposed exhibits and witnesses shall be submitted.
- E. Settlement possibilities shall be discussed.
- F. The FVDS shall be filed by the parties.

#### **7.09 Trials**

##### **A. Presentation of Evidence.**

1. All contested actions shall be tried orally before the Family Court Judge unless the Family Court Judge finds pursuant to motion by either party that there is good cause to permit evidence to be presented by deposition or interrogatory and has entered an order permitting proof to be taken in that manner.

2. No motion or tendered "Agreed Order" to take proof by deposition will be considered by the Family Court Judge unless at least one of the parties has filed a Verified Disclosure Statement.
3. Cases heard orally shall be reported either by videotape or audiotape. Depositions and interrogatories shall be on 8-1/2 x 11 inch paper, shall be typewritten in 12-point type, and double spaced.

#### **7.10 Briefs/statement of desired findings, conclusions and judgments**

- A. Each party may submit to the Family Court Judge at the time of trial proposed Findings of Fact, Conclusions of Law and Decree/Judgment which he or she desires the Judge to enter. Following the trial and upon a ruling, the Judge may require the parties to submit Findings, etc., and may set reasonable time limits for the filing of these documents. If briefs are submitted, the Court may set limits as to the length of said briefs and the time for filing with the Court.
- B. In any case tried by deposition or interrogatory, a motion to submit shall be accompanied by a statement of desired Findings of Fact, Conclusions of Law and Judgment. The responding party shall have seven (7) days in which to file a similar statement or object to the motion to submit. If no objection is filed, the case shall stand submitted seven (7) days after the hearing on the motion to submit.

#### **7.11 Parents and Children Education Clinics**

If there are minor children of the marriage, a proceeding for dissolution of marriage may not be assigned for final hearing until the parties have attended and completed the approved divorce education program and the parties' children who are enrolled in school grades 1-8 have attended the approved divorce education program, if ordered by the Court pursuant to FCRPP 3 (5).

#### **7.12 Failure or refusal to attend**

If a party fails or refuses to attend the approved divorce education program when ordered by the Court, the Court may make such orders in regard to the failure or refusal as are just, including but not limited to the following:

- A. An order refusing to assign a trial date until the party requesting the trial date attends the program;
- B. In lieu of any of the foregoing orders or in addition thereto, an order treating as contempt of court the failure to obey an order to attend the program.

### **7.13 Fee for attendance of PEC**

The costs associated with counseling or divorce education shall be at the expense of the parties.

### **7.14 Disputed child custody and/or parenting arrangements**

- A. The parties are encouraged to reach an agreement regarding custody and parenting times that are in the best interests of the children.
- B. At such time that it is determined that custody and/or parenting time arrangements are in dispute, and the parties are unable to resolve the conflict, a party may seek or the Court, sua sponte, may order appropriate action to address the custody and/or parenting time arrangement pursuant to FCRPP 6(1). Such appropriate actions may consist of one or more of the following:
  - 1. Custody evaluation;
  - 2. Psychological evaluation(s) of a party or parties, and/or children;
  - 3. Family counseling;
  - 4. Mediation/evaluation (except in cases of domestic violence) where the parties are assisted in reaching their own resolution of conflict; however, if this process fails, the Court may order a custody evaluation which is to be reported to the Court and the parties;
  - 5. Appointment of a Guardian Ad Litem to represent the best interest of children;
  - 6. Appointment of independent counsel to represent the children;
  - 7. The appointment of other suitable professionals for opinions or advice which the Court deems appropriate;
  - 8. Such other action deemed appropriate by the Court. In requesting one of the alternatives presented above, counsel for a party shall provide in detail the reasons supporting the request.
- C. It is the policy and the request of the Family Court to use the term "parenting time" in lieu of visitation.

### **7.15. Time-Sharing/Visitation**

The Time-Sharing/Visitation Guidelines are located in Appendix 6 to these rules.

### **7.16 Modification**

Each Separation Agreement and Final Decree, which includes provisions for parenting time, shall include a statement incorporating the parenting time-sharing schedule ordered by the Court or agreed to by the parties and approved by the Court, and shall also include the following language:

The agreed parenting time-sharing schedule is based on the current residences of the parties. Prior to relocation of either party to another county or state, or a move which would require modification of the present agreement, the party intending to relocate shall tender an Agreed Order modifying parenting time or said party shall petition the Court for mediation or a hearing to modify parenting time. A possessory parent shall not relocate the child/children prior to Court approved modification.

### **7.17 Family Court Staff**

- A. The Family Court Staff may assist the parties in reaching an agreement concerning custody and parenting time-sharing issues through a pre-arranged negotiation session set at the discretion of the Family Court Judge.
- B. If no agreement is reached through the negotiation session, the case shall proceed according to the applicable sections of HFCRPP 7.
- C. The Family Court Staff may at the request of the Family Court Judge, prepare an annual calendar for parenting time-sharing for the parties, a copy of which shall be filed with Family Court and a copy provided to each party. This parenting time-sharing calendar shall be binding upon the parties, unless otherwise ordered by the Court.

### **7.18 Motions to set or modify child support or maintenance**

- A. Pursuant to FCRPP 9, a motion to set or modify support shall set forth the current child support and shall be accompanied by a completed Child Support Guidelines Worksheet and by copies of movant's last three (3) pay stubs or, if movant is self-employed, proof of movant's current gross income. An AOC-152 shall be completed and filed with each motion for child support. Movant shall also include documentation pertaining to health care expenses concerning the children and work related child care costs. The Hardin County Attorney's Office may be allowed to rely upon its federal/state wage data reports as comparable information as above.
- B. Pursuant to FCRPP 5, a motion to set or modify maintenance shall set forth the current maintenance and shall be accompanied by copies of movant's last three (3) pay stubs or, if movant is self-employed, proof of movant's current gross income and by an affidavit setting forth separately:



1. Movant's gross and net monthly income and expenses at the time the existing maintenance or support was ordered by the Court; and
  2. Movant's gross and net monthly income and expenses at the time of the filing of the modification motion.
- C. The notice of hearing accompanying any motion to set or modify child support shall contain the following statement and shall be placed in a conspicuous manner: "You must file with the Court, at least 48 hours prior to the time of the hearing, a completed Child Support Guidelines Worksheet and copies of your last three (3) pay stubs or, if self-employed, proof of your current gross income." The notice of hearing accompanying any motion to set or modify maintenance shall contain the following statement: "You must file with the Court, at least 48 hours prior to the time of the hearing, a responsive affidavit setting forth your monthly gross and net income and expenses and attach copies of your last three (3) pay stubs, or if self-employed, proof of your current gross and net income."
- D. All child support shall be paid by wage assignment unless otherwise agreed to by the parties.

#### **7.19 Post-Decree Litigation**

A fee of \$50.00 shall be paid by the movant in domestic relations cases reopened after six (6) months from the entry of the decree for the purpose of modifying the decree or from the last order modifying the decree. This does not include motions in 42 U.S.C. Title IV-D cases for child support enforcement. The clerk shall collect any fee upon the filing of the motion unless the movant is proceeding in forma pauperis. See FRCPP 3 (6).

### **HFCRPP 8. STATUS OFFENSES**

#### **8.01. Review**

- A. Truancy/Educational Neglect and all other status offense arraignments, appearances, adjudications, dispositions, reviews and contempt matters shall be scheduled pursuant to the schedule in HFCR 2.01/Appendix 1, or at any other time set by the Family Court Judge to promote judicial economy.
- B. Any motion, except contempt, filed on the Status "J" docket shall be filed one week in advance of the court date. All Motions for Contempt shall comply with HFCRPP 2.05.

## **HFCRPP 9. MISCELLANEOUS**

### **9.01 Compliance with KRS 403.135; KRS 403.150; and KRS 403.211 regarding personal data identifiers**

1. In order to protect the identity of the parties and their minor children and keeping in compliance with KRS 403.135, KRS 403.150 and KRS 403.211, each document filed with the Hardin Circuit Court Clerk's office which is required by statute to include social security numbers shall be filed in duplicate. The first unredacted original shall contain the social security numbers as required under the statutes, shall be filed in a sealed envelope and shall be retained by the Clerk of this Court as part of the record and not subject to review of the public. The second redacted original shall be made part of the public record.
2. Only official court personnel may view the sealed portion of the record. All other individuals may view the sealed information with a properly noticed motion and the entry of a certified court order of the Judge to whom the matter has been assigned.
3. It is the sole responsibility of the counsel and the parties to ensure that all pleadings and other papers comply with the local rules of this Court requiring redaction of personal data identifiers. The clerk will not review each document for redaction.

## APPENDIX NO. 1

### Court Schedule

#### HARDIN FAMILY COURT SCHEDULE

Monday:	9:00 a.m.	EPO/DVO
Contact Clerk for dates for paternity docket	1:00 p.m.	Paternity/child support
	1:00 p.m.	Domestic Relations Hearings
Tuesday:	9:00 a.m.	Domestic Relations Hearings
	11:00 a.m.	Domestic Relations Cases Division I Motion Hour
	11:30 a.m.	Domestic Relations Cases Division IV Motion Hour
	1:00 p.m.	Domestic Relations Hearings (15 minute hearings)
Wednesday:	8:30 a.m.	Dependent, Neglect and Abuse – Division I
	9:30 a.m.	Status – Division IV
	1:00 p.m.	Dependent, Neglect and Abuse – Division IV
	2:00 p.m.	Status – Division I
Thursday:	9:00 a.m.	Domestic Relations Hearings
	1:00 p.m.	Domestic Relations Hearings
Friday:	9:00 a.m.	Domestic Relations Hearings

**\*Emergency custody or detention hearings or other emergency matters may be scheduled any weekday by the presiding Family Court Judge, within the statutory mandates, as the need arises. The Family Court Judge, at his or her discretion, can assign a special adjudication date on any weekday to promote judicial economy and for statutory compliance.**

**APPENDIX NO. 2**  
**HARDIN FAMILY COURT CASE DISCLOSURE**

\_\_\_\_\_  
vs.  
\_\_\_\_\_

PETITIONER  
  
RESPONDENT

1. Does either party, or parties' child(ren), presently have an action pending in Hardin Family Court?

Yes \_\_\_\_\_ No \_\_\_\_\_

2. If Yes, please check what type of action and include case number and Judge:

- a) Divorce \_\_\_\_\_
- b) EPO/DVO \_\_\_\_\_
- c) Custody \_\_\_\_\_
- d) Paternity \_\_\_\_\_
- e) DNA \_\_\_\_\_
- f) Status \_\_\_\_\_
- g) Adoption \_\_\_\_\_

3. Has there been a previous related action filed in Hardin Family Court?

Yes \_\_\_\_\_ No \_\_\_\_\_

4. If Yes, please check what type of action and include case number and Judge:

- a) Divorce \_\_\_\_\_
- b) EPO/DVO \_\_\_\_\_
- c) Custody \_\_\_\_\_
- d) Paternity \_\_\_\_\_
- e) DNA \_\_\_\_\_
- f) Status \_\_\_\_\_
- g) Adoption \_\_\_\_\_

5. Are there pending cases in any other jurisdiction? If so, give case number and location. \_\_\_\_\_

We hereby certify that the above information is true as we verily believe.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Counsel for Petitioner

## **APPENDIX NO. 3**

### **TWENTY-FOUR (24) HOUR ACCESSIBILITY TO EMERGENCY PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION DOMESTIC VIOLENCE PROTOCOL 9<sup>th</sup> JUDICIAL CIRCUIT AND DISTRICT HARDIN COUNTY**

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four (24) hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit/family and district courts.

#### **I. Uniform Protocol for Handling Cases**

- A. All domestic violence cases must be processed consistent with the rules and procedure set forth in the Kentucky Circuit Court Clerk's Manual.
- B. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may be consolidated with any other case type.
- C. Domestic violence matters may be reassigned from the district court division to circuit/family court when there is a dissolution/custody proceeding pending.
- D. No county shall adopt a blanket "no-drop" policy. Domestic violence cases are civil matters within the purview of CR 41.01.
- E. Domestic violence cases shall be reassigned or transferred to another circuit under the following circumstances:

If there is a pending dissolution or custody matter in another circuit.

Consistent with FCRPP 12, when the case is transferred to another circuit due to a pending dissolution or custody matter, an emergency protective order shall continue and the summons shall be reissued by the initiating court, pursuant to KRS 403.740(4), for a period not to exceed fourteen (14) days if service has not been made on the adverse party by the date of transfer, or as the court determines is necessary for the protection of the petitioner. Thereafter, reissuance of the summons shall occur as needed in the court of transfer.

## **II. Twenty-four Hour Accessibility**

- A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **during** regular business hours:

Hardin Circuit Clerk's Office, 120 East Dixie, Elizabethtown, KY 42701

- B. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **after** regular business hours and weekends:

Elizabethtown Police Department, Radcliff Police Department, Hardin County Sheriff's Department, Kentucky State Police, or any other local police agency.

- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:

The clerk shall deliver the petition to one of the Family Court Judges and if both are not available then to any available Circuit Judge or District Judge.

- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to the following:

The petition shall be delivered to one of the Family Court Judges and if both are not available then to any available Circuit Judge, District Judge or trial commissioner.

- E. Petitions will be reviewed within an hour of presentation to a judge or trial commissioner unless it is impossible due to the unavailability of a judge or trial commissioner.

- F. The schedule for domestic violence hearings is as follows:

Domestic violence hearings are held every Monday at 9:00 a.m. with the exception of Court of Justice holidays.

## **III. Contempt Proceedings**

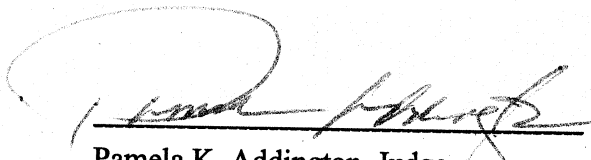
- A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.
- B. Petitioners seeking to initiate contempt proceedings should contact:

The Hardin Circuit Clerk to complete a Domestic Violence Affidavit (see Attachment).

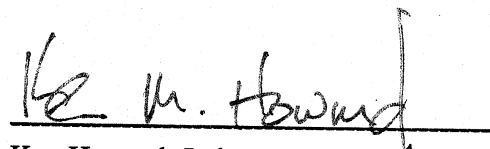
- C. No petitioner may be held in contempt for failing to appear at a domestic violence hearing or to prosecute a criminal violation of a protective order.

All general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

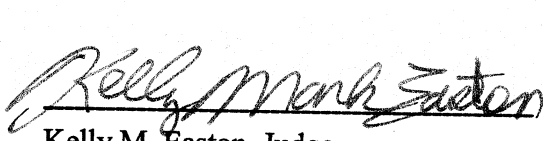
The above protocol is adopted by all judges in the circuit/district:



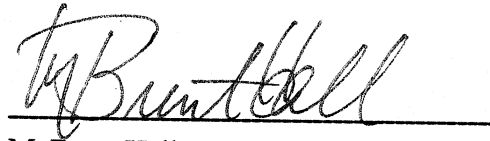
Pamela K. Addington, Judge  
9<sup>th</sup> Judicial Circuit, Division I



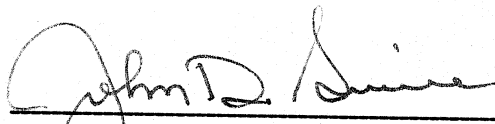
Ken Howard, Judge  
9<sup>th</sup> Judicial Circuit, Division II



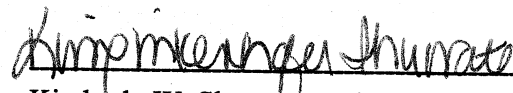
Kelly M. Easton, Judge  
9<sup>th</sup> Judicial Circuit, Division III



M. Brent Hall, Judge  
9<sup>th</sup> Judicial Circuit, Division IV



John D. Simcoe, Judge  
9<sup>th</sup> Judicial District, Division I



Kimberly W. Shumate, Judge  
9<sup>th</sup> Judicial District, Division II

COMMONWEALTH OF KENTUCKY  
HARDIN CIRCUIT COURT  
FAMILY COURT – DIVISION I  
CASE NO. \_\_\_\_\_

DOMESTIC VIOLENCE AFFIDAVIT

\_\_\_\_\_  
PETITIONER

VS.

\_\_\_\_\_  
RESPONDENT

Information about Respondent::

Current Residence: \_\_\_\_\_  
\_\_\_\_\_

Usual Residence: \_\_\_\_\_  
\_\_\_\_\_

Occupation: \_\_\_\_\_

Employer Name: \_\_\_\_\_

Employer Address: \_\_\_\_\_

Sex	Race	Date of Birth	Height	Weight	Social Security #	Operator License #	State

Caution: ( ) Weapon involved ( ) Believed to be armed and dangerous

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

X  
AFFIANT

Subscribed and sworn to before me on \_\_\_\_\_, 201\_\_\_\_\_  
Loretta Crady, Hardin Circuit/District Clerk  
By: \_\_\_\_\_ D.C.

- \_\_\_\_\_ IT IS ORDERED that a Domestic Violence Summons be issued.  
\_\_\_\_\_ IT IS ORDERED that a Show Cause Order be issued.  
\_\_\_\_\_ IT IS ORDERED that a Domestic Violence Forthwith Order of Arrest be issued.  
\_\_\_\_\_ IT IS ORDERED that the Motion for Contempt is denied.  
\_\_\_\_\_ IT IS ORDERED that Affiant is referred to the Hardin County Attorney for possible criminal proceedings or for substantial violation.

\_\_\_\_\_  
HON PAMELA K. ADDINGTON  
JUDGE, HARDIN CIRCUIT  
FAMILY COURT, DIVISION I



## **APPENDIX NO. 4**

### **DUTIES OF THE MEDIATOR**

The Mediator has a duty to define and describe the process of mediation and its costs during an orientation session with the parties at the commencement of the mediation conference. The Mediator shall comply with the HFCRPP. The orientation should include the following:

- a. a description of the roles and responsibilities of the mediator, counsel, and the parties;
- b. the fees per session;
- c. a statement that any agreement reached will be reached by mutual consent of the parties;
- d. an explanation that mediation differs from other forms of conflict resolution including therapy, counseling, arbitration, and the practice of law;
- e. a description of the circumstances under which the mediator may meet privately with either of the parties and their counsel, if represented, or with any other person, i.e., during scheduled mediation, the mediator may meet and consult privately with any party or parties and their counsel;
- f. an explanation that statements made during mediation hearings by any party shall be privileged, exempt from subpoena and discovery, and shall not be admissible in any proceeding for any purpose. Such statements shall also be deemed confidential except for the purposes of the mediator reporting to the court as outlined in these Rules and will be released to no other person or agency without the express written consent of both of the parties to the dispute. The only exception is that the mediator shall be responsible for reporting abuse according to KRS 209.030 and KRS 620.030;
- g. the acquisition of any information necessary to define the disputed issues;
- h. an explanation by the mediator that during the process of mediation the parties may, by agreement, employ a third party to help resolve factual disputes, e.g. valuation of assets, determination of tax consequences, psychological evaluations, child custody evaluations, etc.;
- i. a statement by the mediator that he/she shall conduct the mediation in accordance with these rules; and

- j. scheduling by the mediator of any further mediation sessions for the parties.

### **MEDIATOR'S CHARGES**

1. A mediator shall give a written explanation of the fees and related costs, including time and manner of payment, to the parties prior to the mediation. The explanation shall include the basis for and amount of charges, if any, for:
  - a. Mediation sessions;
  - b. Preparation for sessions;
  - c. Travel time;
  - d. Postponement or cancellation of mediation sessions by the parties and the circumstances under which such charges will normally be assessed or waived;
  - e. Preparation of the parties' written mediation agreement if prepared by the mediator; and
  - f. All other items billed by the mediator.
2. A mediator should provide mediation services pro bono or at a reduced rate of compensation whenever appropriate.

## **APPENDIX NO. 5**

### **RESPONSIBILITY OF APPOINTED GUARDIAN AD LITEM**

Any attorney appointed Guardian Ad Litem in either a voluntary termination, an involuntary termination, or an adoption case, must be prepared to be available on short notice. Cases of these nature are, by statute, entitled to expedited hearings and it is extremely important that Guardians carry out their functions properly and efficiently.

#### **VOLUNTARY TERMINATION**

For an underage birth parent:

- Review the pleadings in the case and the applicable statutes to make sure that the case is "in order" for the termination hearing.
- Meet with or speak by phone with the birth parent and/or next of friend prior to the day of the hearing.

For an infant:

- Review the pleadings in the case and the applicable statutes to make sure that the case is "in order" for the termination hearing.
- A brief meeting with the birth parent(s) prior to court on the day of the hearing is recommended.

#### **INVOLUNTARY TERMINATION**

For an underage birth parent:

- Review the pleadings in the case and the applicable statutes to make sure that the case is "in order" for the termination hearing.
- Meet with or speak by phone with the birth parent prior to the day of the hearing.

For an infant:

- Review the pleadings in the case and the applicable statutes to make sure that the case is "in order" for the termination hearing.

## APPENDIX NO. 6

### TIME-SHARING / VISITATION GUIDELINES FOR THE 9<sup>TH</sup> JUDICIAL CIRCUIT HARDIN FAMILY COURT

The following schedules are suggested as **guidelines** for the parents and the Court in establishing time-sharing/visitation schedules. Each case will present unique facts or circumstances which shall be considered by the court in establishing a time-sharing/visitation schedule and **the final schedule established by the court or agreed to by the parents may or may not be what these guidelines suggest.**

1. If the parties live in the same county or the non-custodial/non-primary possessory parent resides in a county adjoining that in which the children reside, the following parenting-time schedule may apply in the absence of an agreement except for good cause being shown.

#### A. Periodic Parenting Time:

1. Weekends: Alternate weekends from Friday at 6:00 p.m. until Sunday at 6:00 p.m.
2. Telephonic: One hour per week.
3. Weekday: One evening during the week that alternate weekend parenting time is not being exercised.

#### B. Holidays:

1. In odd-numbered years, the custodial or primary possessory parent has the child/children on Easter, 9:00 a.m. to 6:00 p.m., and Halloween from after school until 8:00 p.m. and the non-custodial parent has the child/children July 4th, 10:30 a.m. to 10:30 p.m., and Thanksgiving, 10:00 a.m. to 6:00 p.m. In even-numbered years, the schedules are reversed.
2. Memorial Day, Martin Luther King's Birthday, President's Day and Labor Day attach to the preceding weekend and the child/children are with the parent who had them that weekend.
3. Christmas: In odd-numbered years, the custodial parent/primary possessory parent has from the end of school until 7:00 p.m. Christmas Eve and the non-custodial/non-primary possessory parent has from 7:00 p.m. Christmas Eve until 6:00 p.m. on the day before the children return to school. In even-numbered years, the schedules are reversed.

4. This schedule does not preclude an agreement or specific order to share the children on Christmas Eve and Christmas Day; if such is agreed, the Christmas Eve parenting time will be from 8: a.m. to 10: p.m..

**C. Summer Vacation:**

The summer vacation period shall include five (5) weeks of parenting time with the non-custodian/non-primary possessory parent notifying the other parent in writing by May 1 of each year when parenting time will be exercised. The custodian/primary possessory parent must give the other notice of special plans for the child/children to avoid planning conflicts by May 1 of each year.

1. Summer school necessary for the child/children to pass to the next grade must be attended.
2. A general itinerary should be provided if the vacation will be out of town.
3. Each party will have telephone numbers and addresses to permit contact during periods of extended parenting time.
4. The custodian/primary possessory parent shall be entitled to telephonic parenting time one time each week during the extended parenting time.

**D. Spring/Fall Break:**

The parties will alternate possession during the spring and fall breaks in the alternative school calendar.

**E. Other Parenting time:**

The non-custodian/non-primary possessory parent may also exercise parenting time for one week per month, 8 times per year, but not in the months when the non-custodial parent is exercising any other extended parenting time, i.e. spring, summer, fall or Christmas holidays, with prior notice and with the understanding that said visiting parent will be responsible for insuring the child's daily attendance at his/her regular school each day during such parenting time. This week of parenting time shall include the non-custodian/non-primary possessory parent's weekend to total 7 consecutive days.

The non-custodian/non-primary possessory parent may give to the custodian/primary possessory parent a proposed calendar of the desired eight weeks for each year by December 1, of the preceding year. Then the custodian/primary possessory parent shall notify the non-custodian/non-primary possessory parent if the calendar is acceptable by December 15 of each year. If the custodian/primary possessory parent does not send written notification to the non-custodian/non-primary possessory parent by December 15, then the non-custodian/non-primary possessory parent's calendar shall be deemed accepted. If, for some reason, the calendar is not provided by the non-custodian/non-primary possessory parent, or not accepted by the custodian/primary possessory parent,

or the parties cannot agree otherwise, then it is deemed that the five week days following the first weekend parenting time of each month shall comprise of the 7 consecutive days of parenting time eight times during the year. The first weekend is defined as the first weekend of a month that includes both a Saturday and Sunday.

**1. Where there is no written agreement**

If the parties do not live in the proximity identified in 1. above, the following parenting time schedule may apply in the absence of a written agreement, signed by both parties, except for good cause being shown.

**A. Periodic parenting time:**

Telephonic: One hour two times per week.

**B. Holidays:**

1. In odd-numbered years, the custodian/ primary possessory parent has Easter, July 4<sup>th</sup>, and Thanksgiving from the end of school on Wednesday until Sunday at 6:00 p.m. In even-numbered years, the schedules are reversed. Unless otherwise agreed upon by the parties the non-custodial parent is responsible for the travel.
2. Memorial Day, Martin Luther King's Birthday, President's Day and Labor Day attach to the preceding weekend and the child/children are with the parent who had them that weekend. Unless otherwise agreed upon by the parties, the noncustodial parent is responsible for the travel.
3. Christmas: In odd-numbered years, the custodial parent/primary possessory parent has from the end of school until 7:00 p.m. Christmas Eve and the non-custodial/non-primary possessory parent has from 7:00 p.m. Christmas Eve until 6:00 p.m. on the day before the children returns to school. In even-numbered years, the schedules are reversed. Unless otherwise agreed by the parties travel costs share be shared equally.
4. This schedule does not preclude an agreement or a specific order to share the children on Christmas Eve and Christmas Day.

**C. Summer Vacation:**

The summer vacation period the parties shall include 3 weeks of parenting time with the non-custodial/non-primary parent notifying the other parent in writing by May 1 of each year when the parenting time will be exercised. The custodian/primary parent must give the other parent notice of special plans for the child/children to avoid planning conflicts prior to May 1 of each year. Transportations costs shall be shared equally by the parties. Additionally the parties shall:

1. Ensure the child/children attend summer school necessary for the child/children to pass to the next grade must be attended.
2. A general itinerary should be provided if the vacation will be out of town.
3. Each party will have telephone numbers and addresses to permit contact during periods of extended parenting time.
4. The child/children shall be permitted to phone the non-possessory parent.

#### **D. Spring/Fall Break.**

The parties will alternate possession during the spring and fall breaks in the alternative school calendar sharing equally any transportation costs.

- E. A non-custodial/non-primary possessory parent who lives more than 125 miles from the primary/custodial parent, may elect to exercise parenting time as indicated in these Guidelines with the understanding that he/she will be responsible for any additional transportation requirements and that such election will not adversely affect the child/children's welfare.

## **2. Miscellaneous**

### **A. Terms:**

1. A holiday that falls on a weekend should be spent with the parent who is supposed to have the child/children for that holiday. The rest of the weekend is to be spent with the parent who would normally have that weekend. These do not have to be made up.
2. Mother's Day and Father's Day are to be spent with the appropriate parent. Hours as agreed upon by parties or from 10:00 a.m. to 7:30 p.m.
3. Birthdays: Preferably, the child shall spend time with each parent on the child's birthday. If the parties are unable to agree, then the child shall celebrate his/her birthday in the home of the custodial parent, unless it falls on a parenting time day, and the other parent can celebrate at another time if desired.
4. The child/children and custodial parent have no duty to await the visiting parent for more than 30 minutes of the parenting time. A parent who is late forfeits parenting time for that time period. The custodial parent or acceptable representative must be home at the return time to receive the child/children.

5. The following shall control cancellation: If a child is ill, the custodial parent should give 24-hour notice, if possible, so appropriate plans can be made. The non-custodial parent should give 24-hour notice to cancel. The time canceled by the non-custodial parent is forfeited. Time lost for a child's illness should be made up within 30 days.
6. The custodial parent shall send adequate and appropriate clothing for the parenting time which will be returned.

**B. Transportation:**

Unless otherwise specified by these rules or unless parties have reached an agreement, each party shall be responsible for the transportation costs for transporting the child/children to their own home. Minor children shall be picked up and dropped off at the custodial parent or non-custodial parent's residence unless otherwise agreed upon in writing or ordered by the Court.